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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,570	09/22/2003	Garth Boehm		1970

65626 7590 02/12/2009

PATRICK J. HALLORAN, PH.D., J.D
3141 MUIRFIELD ROAD
CENTER VALLEY, PA 18034

EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 02/12/2009

Please find below and/or attached an Office communication concerning this application or proceeding.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10667570	9/22/03	BOEHM ET AL.	

PATRICK J. HALLORAN, PH.D., J.D.
3141 MUIRFIELD ROAD
CENTER VALLEY, PA 18034

EXAMINER

Humera N.. Sheikh

ART UNIT	PAPER
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1615	20090206
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DATE MAILED:

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Commissioner for Patents

Receipt is acknowledged of a request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e) and a submission, filed on 11/18/08. The submission, however, is not fully responsive to the prior Office action because the amendment filed on 11/18/08 now presents claims drawn to a non-elected invention and thus is non-responsive (MPEP § 821.03). The pending claims are not readable on the elected invention because Applicant's originally-elected invention (see claims filed 09/22/03) was drawn to "a sustained release oral dosage form comprising a subunit". Applicant now presents claims drawn to "an oral dosage form comprising a FIRST and SECOND subunit", which was a non-elected invention (see Restriction requirement of 01/16/07 and Applicant's Response to Election filed 05/16/07). The amendment of 11/18/08 represents a shift of invention because it changes the scope and structure of the previously claimed device (i.e., dosage form having only one subunit). Hence, the pending claims which now require "first" and "second" subunits are a departure from the previously elected and claimed "subunit".

Since the submission appears to be a *bona fide* attempt to provide a complete reply to the prior Office action, applicant is given a shortened statutory period of ONE MONTH or THIRTY DAYS from the mailing date of this letter, whichever is longer, to submit a complete reply. This shortened statutory period for reply supersedes the time period set in the prior Office action. This time period may be extended pursuant to 37 CFR 1.136(a).

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Humera N. Sheikh whose telephone number is (571) 272-0604. The examiner can normally be reached on Monday, Tuesday, Thursday and Friday during regular business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward, can be reached on (571) 272-8373. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have any questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Humera N. Sheikh/
Primary Examiner, Art Unit 1615